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EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

प्राधिकार से प्रकाशित
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नई दिल्ली, मंगलवार, दिसम्बर 6, 1988/अग्राहायण 15, 1910

No. 632] NEW DELHI, TUESDAY, DECEMBER 6, 1988/AGRAHAYANA 15, 1910

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

गृह मंत्रालय

प्रधिसूचना

नई दिल्ली, 6 दिसम्बर, 1988

का. प्रा. 1139(प्र).—केन्द्रीय सरकार ने विधि विरुद्ध क्रियाकलाप
(निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3 की उपधारा
(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तारीख 4 मई, 1988
को बल खालसा को विधि विरुद्ध संगम घोषित किया था।

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 5 की उपधारा
(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तारीख 23 मई, 1988
को विधि विरुद्ध क्रियाकलाप (निवारण) अधिनियम पठित किया था
जिसमें पटना उच्च न्यायालय के न्यायाधीश श्री एन. एच. एस. अजीमी
से;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 4 की उपधारा
(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त प्रधिसूचना को इस
बात का न्यायनिर्णयन करने के प्रयोजनार्थ कि उक्त संगम को विधि विरुद्ध
घोषित करने के लिए पर्याप्त कारण हैं या नहीं, 27 मई, 1988 को
उक्त अधिकरण को निविष्ट किया था;

और उक्त अधिकरण ने उक्त अधिनियम की धारा 4 की उपधारा
(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 3 नवम्बर, 1988 को
आदेश पारित किया;

अब केन्द्रीय सरकार उक्त अधिनियम की धारा 4 की उपधारा (4)
के अनुसरण में उक्त अधिकरण का उक्त आदेश प्रकाशित करती है, अर्थात्:

आदेश

विधि विरुद्ध (निवारण) अधिकरण के समक्ष (अर्सेजी में प्रकाशित
प्रधिसूचना देखिये)

[सं. II 17017/68/88-आई.एस. (सी.-7)]

एस. सी. भयबाल, उपसचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 6th December, 1988

S.O. 1139(E).—Whereas the Central Government
in exercise of the powers conferred by sub-section

(1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) declared on the 4th May, 1988 the Dal Khalsa to be an unlawful association;

And whereas the Central Government, in exercise of the powers conferred by sub-section (1) of Section 5 of the said Act, constituted on the 23rd May, 1988, the Unlawful Activities (Prevention) Tribunal consisting of Shri Justice S.H.S. Abidi, Judge of the Patna High Court;

And whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, referred the said notification to the said Tribunal on the 27th May, 1988, for the purpose of adjudicating whether or not there was sufficient cause for declaring the said association as unlawful;

And whereas the said Tribunal in exercise of the powers conferred by sub-section (3) of section 4 of the Act made an order on the 3rd November, 1988;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said order of the said Tribunal, namely :—

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

Reference made under section 4, sub-section (1) of Unlawful Activities (Prevention) Act (Act No. 37 of 1967)

In Re : Reference Case No. 1 of 1988

In the matter of "Dal Khalsa" :

PRESENT :—

The Hon'ble Mr. Justice S. H. S. Abidi

For the Union of India : Sri S. C. Maheshwari
with Sri Y. C. Maheshwari

For the Dal Khalsa : No appearance

Venue of the sittings & the dates of hearing :—

(1) At Patna, Chamber of Hon'ble Mr. Justice S. H. S. Abidi, High Court Patna; 2-6-88, 20-6-88, 4-7-88, 8-8-88 & 2-9-88

(2) At Delhi Ground Floor Hall, Punjab Bhawan, Copernicus Marg, New Delhi
5-9-88 to 9-9-88 & 26-9-88 to 30-9-88
1-11-88, 2-11-88 & 3-11-88.

(3) At Simla Cedar Circuit House, Simla
10-10-88 to 15-10-88

Having issued show cause notice U/s 4(2) of the Unlawful Activities (Prevention) Act (Central Act 37 of 1967) on 20-6-88 at High Court Buildings, Patna to the Dal Khalsa and its office bearers individually for their appearance and issued further notice notifying the further dates of enquiry at the venue noted above and having heard the counsel for the Central Government, the Dal Khalsa and its

office-bearers having remained ex parte despite sufficient service of Notices, the Tribunal made on this 3rd day of November, 1988, the following order :

ORDER

Abidi, J.—This is a reference under section 4, sub-section (1) of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the 'said Act'). The Central Government by a Notification bearing No. S. P. 470(E), dated 4th May, 1988 published in the Gazette of India, Extraordinary on the same date declared 'Dal Khalsa' as an Unlawful Association. The Central Government constituted the present Tribunal under section 5(1) of the said Act and referred to this Tribunal the above Notification for the purpose of adjudicating whether or not there is sufficient cause for declaring the said organisation as unlawful. Under Rule 5 of the Unlawful Activities (Prevention) Rules, the Central Government also forwarded a resume regarding the aims and activities of the Tribunal.

2. Thereafter, this Tribunal issued Notices on 20-6-88 under section 4(2) of the said Act calling upon the affected association, namely, the Dal Khalsa and each of its office-bearers to show cause in writing within 30 days of service of such notice or to why the Association of Dal Khalsa should not be declared an 'Unlawful Association' under the said Act. The said notice in the name of the Association 'Dal Khalsa' and its office bearers was sent to their last known address by the Tribunal under registered post with acknowledgement due and all such registered notices have since been returned unserved with the endorsement of the postal peon as addressee 'not found'. The modes of substituted service as prescribed under the Rules as also under the Civil Procedure Code were adopted by spelling out that the contents of the notice be served through proclamation by beat of drums by means of loud-speakers in and around the area of the last known address of the office of 'Dal Khalsa' as also by affixing a copy of the notice on the conspicuous part of the office of the Association. Steps were also taken for the service of the notice on the affected Association and its office-bearers by publication in the English, Punjabi and other vernacular newspapers of the State of Punjab. The contents of the Notice U/s 4(2) of the said Act have been served by publication in six daily newspapers of the State of Punjab, namely, 'Tribune' dated 1-8-88, 'Indian Express', 'Hind Samachar', 'Punjab Keshri', 'Akali Patrika' and 'Nawan Zamana' all dated 2-8-88. The said Notice called upon the Association and each of the office-bearers to appear and show cause before the Tribunal having its office in eye chambers in the Patna High Court Buildings, Patna, failing which it would be considered that they had no representation to make and the enquiry in the case would be conducted in their absence ex-parte. In spite of the valid service of the said notice by publication in the aforesaid newspapers adopted as one of the modes of service by the Tribunal under Order 5, Rule 20 of the Civil Procedure Code (Cl. 1, A), the Association 'Dal Khalsa' or its office-bearers did not appear to the any show cause.

3. Further Notice issued by this Tribunal on 22-8-88 U/s 4(3) of the said Act notifying the dates of enquiry from 5th September to 9th September, 1988 at Punjab Bhavan, Copernicus Marg, New Delhi, Calling upon the Association and its office-bearers to participate in the enquiry for the adjudication of the aforesaid Government Notification issued u/s 3(1) of the said Act was also served by publication through English and Vernacular newspapers, viz., The Tribune, The Indian Express, The Punjabi Tribune, Punjab Keshri and Akali Patrika all dated 30-8-1988. This notice too elicited no response from the Association or its office bearers. The Tribunal afforded still further opportunities for ensuring the presence of the Association and its office-bearers, serving the notice u/s 4(3) of the said Act by publication in the English and Vernacular newspapers of the State of Punjab, namely, The Tribune, Punjab Keshri, The Punjabi Tribune all dated 16-9-88, Punjab Keshri dated 17-9-88 and Hind Samachar dated 23-9-88 regarding the holding of sittings of the Tribunal at Punjab Bhavan, Copernicus Marg, New Delhi from 26-9-88 to 30-9-88 as also from 10-10-88 to 16-10-88 at Simla. Despite repeated notice U/s 4(3) of the said Act, the Association or its office-bearers did not participate in the enquiry. Sri Harsimran Singh Mukh Panch of Dal Khalsa sent a registered letter Ext. C|1) expressing his intention to participate during Enquiry proceedings but he did not make any appearance at any stage of the proceeding. In the circumstances, the enquiry proceeded ex-parte in their absence.

4. It is worthwhile to mention here that under the provisions of the said Act, an association is declared unlawful under section 3 sub-section (1) of the Act, and sub-section (2) of Section 3 of the said Act requires the Government to specify the grounds and such other particulars on which the said notification was issued. Sub-section (3) of section 3 provided that no such notification would have effect until the Tribunal had, by an order made under section 4 confirmed the declaration made there in and the order was published in the official gazette. It appears that Central Government declared the Association known as "the Dal Khalsa" as an unlawful Association as early as in the year 1982 by Notification bearing no. S.O. 295(E) dated 1-5-82 marked as Ext. G|2 on the grounds mentioned therein. By another notification bearing no. 373 (E) dated 29-5-82, the Central Government constituted the Tribunal consisting of Mr. Justice D. N. Mehta, Judge of the Bombay High Court under the said Act and referred the said Notification to the Tribunal. The said Tribunal by its order dated 19-10-82 confirmed the Notification of the Central Government dated 1-5-82. Ext. G|5 is the order passed by Mr. Justice D. N. Mehta of Bombay High Court. The Notification by virtue of the order of confirmation operated against the affected Association for a period of two years from 1-5-82 to 30-4-84.

5. Thereafter, on the expiry of the above period, the Central Government by Notification bearing no. S.O. 338 (N) declared the said Association unlawful and referred the said Notification to the Tribunal consisting of Mr. Justice P. R. Gokulakrishnan, Judge, High Court of Madras (as he then was) and

the said Tribunal by its order dated 29-10-84 confirmed the aforesaid Notification. The said order of the Tribunal has been marked as Ext. G|6.

6. Subsequently, the Central Government by Notification No. 218 (E) issued under the provision of Section 3 sub-section (1) of the said Act dated 1st May, 1986 made a similar declaration against the said Association. The said notification having been referred to the Tribunal consisting of Shri Justice C. Sriramalu of the Andhra Pradesh High Court, an order confirming the said Notification was passed under sub-clause (3) of section 4 of the said Act, thus rendering the period of the operation of the Notification a force to the extent of two years.

7. In view of the present Notification, Ext. G|1 issued by the Central Government S.O. No. 470(E) referred under section 4 (1) of the said Act to the Tribunal, the following points arise for determination in the instant case :—

1. Whether the Notification (Ext. G|1) issued by the Central Government is in accordance with the provisions of the Act ?
2. Whether the Central Government has shown sufficient cause for declaring 'Dal Khalsa' as an unlawful Association ?
3. Whether the Notification aforesaid dated 4-5-88 made under sub-section (1) of section 3 of the Act be confirmed or cancelled ?

8. Point No. 1 :—G.W. 1, Mr. C. T. Benjamin, Joint Secretary to the Ministry of Home Affairs, Government of India being the representative of the Central Government testifies to the effect that he initiated proceedings through the Notification under section 3 of the Act. He is the incharge of the cases falling under the provisions of the unlawful Activities (Prevention) Act, 1967, so far as they relate to the State of Punjab. His evidence traces the brief history of the issuance of Notification of the like import on three earlier occasions in the years 1982, 1984 and 1986 and the confirmation of the said Notifications by the Tribunals constituted under the Act. The testimony of G.W. 1 shows that he studied previous records and also came across various reports, informations and data furnished by various agencies and sources including the Government of Punjab about the activities of the organisation known as 'Dal Khalsa' and its activities, office-bearers, leaders and workers. He further deposes that all the documents received by the Government of India were examined by him and on consideration of these documents and other materials placed before the Government, the Government issued the Notification (Ext. G|1) with immediate effect being satisfied that Dal Khalsa had been continuing its unlawful activities despite the ban.

9. It appears that the provisions contained under section 3(1) of the Act regarding declaration of the Association as unlawful have been strictly complied with by the Central Government, inasmuch as the Notification specified the grounds in detail as also followed the modes of publicity contained under

sub-section (4) of section 3 of the Act. G. W. 1 addressed a letter to the Director, Directorate of Audio Visual Publicity, Ministry of Information and Broadcasting to give wide publicity to the Notification in all newspapers in English, Hindi, Urdu and Punjabi having circulation in the State of Punjab and in other States (Ext. C)27) G.W. 1 deposes that the Notification issued under section 3(1) of the Act was published in almost all the newspapers and the extracts thereof have been placed before the Tribunal as Ext. 6)28, G.W. 1 has not been cross-examined as none appeared on behalf of the affected Association. The evidence of G.W. 1 clearly establishes the fact that the Government had complied with the provisions of section 3 of the Act while issuing the Notification (Ext. G)1). Hence the above point is answered in the affirmative.

Point Nos. 2 & 3 : These points are being taken up together for the sake of convenience.

Before dwelling on the evidence to assess the sufficiency, or otherwise of the materials before the Central Government for issuing the Notification declaring the Association of Dal 'Khalsa as an 'Unlawful Association', it is expedient to refer to the statutory meanings of the expressions 'Association' and 'Unlawful Association' as defined under the Act. Association as defined under section 2(a) of the Act means any combination or body of individuals.

"Unlawful Association" has been dealt with in section 2(g) of the Act which reads as follows :—

Section 2(g) : Any Association—

(1) which has for its object—

- (a) any unlawful Activity; or
- (b) any activity which is punishable under section 153A I.P.C.; or
- (c) any activity which is punishable under section 153B I.P.C.; or

(2) which encourages or aids person:—

- (a) to undertake any unlawful activity; or
- (b) to undertake any activity punishable under section 153 A I.P.C. or
- (c) to undertake any activity punishable under section 153-B I.P.C.; or

(3) whose members themselves :—

- (a) undertake any unlawful activity; or
- (b) undertake any activity punishable under section 153-A I.P.C.; or
- (c) undertake any activity punishable under section 153-D I.P.C.

is an 'Unlawful Association'

Section 2(f) of the Act defines 'Unlawful Activity' as follows :—

2(f) 'Unlawful Activity' in relation to an individual or association means any action taken by such individual or association (whether by committing an act or by words either spoken or written or

by signs or by visible representation or otherwise,—

- (i) which is intended or supports any claim, to bring about, on any ground whatsoever, the decision of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession;
- (ii) which disclaims questions, disrupts or is intended to disrupt the sovereignty or territorial integrity in India;”

The expression 'cession of a part of the territory of India' has been defined under section 2(b) of the Act as an expression which includes the admission of the claim of any foreign country to any such part. The expression secession of a part of the territory of India from the Union has been defined in Section 2, clause (d) as an expression which included the assertion of any claim to determine such part would remain a part of the territory of India.

The Notification of the Central Government aforesaid under S.O. 470(E) should stand the test on the touchstone of the above norms of the Act with reference to the evidence adduced on behalf of the Central Government. The Notification issued on 4th May, 1988, reads as follows :—

"S. 470(E) :—Whereas the organisation known as 'Dal Khalsa'.

- (i) which had declared as its main objective the establishment of a complete autonomous 'Khalsa State' has in pursuance of its objective, been preaching secession and disruption of the territorial integrity of India through its activities;

- (ii) whose office-bearers and activities have extended support to the creation of 'Khalistan', a separate State by exhorting Sikhs, through circumstance of posters and Press Notes, to indulge in such activities as burning of the Indian national flag, finalising their future course of action and arming themselves to achieve the goal of "Khalsa Raj";

- (iii) whose activists and members in collaboration with other like-minded militant organisations have been propagating plans for action in Hindu dominated localities and for eliminating important leaders who are opposed to their secessionist demands, and Police officer and issuing threats to the Hindus who do not support their 'struggle' and exhorting Sikhs to continue their armed struggle till acceptance of their demand for Khalistan;

- (iv) whose members and activists abroad while indulging in secessionist activities through their associate in India, had also published a 'map' of the so called Khalistan;

- (v) whose members were noticed to have hoisted the so-called 'Khalistan' flags and released balloons containing Khalistani propaganda material on the 26th January, 1988.

And, whereas, the Central Government is of the opinion that for the reasons aforesaid, the 'Dal Khalsa' i.e. an unlawful association;

And, whereas, the Central Government is further of the opinion that because of the activities of the office-bearers and activists of the 'Dal Khalsa' it is necessary to declare the 'Dal Khalsa' to be unlawful with immediate effect;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the 'Dal Khalsa' to be an unlawful association, and directs, in exercise of the powers conferred by the proviso to sub-section (3) of that section, that this notification shall, subject to any order that may be made under section 4 of the said Act, have effect from the date of its publication in the Official Gazette."

The learned counsel for the Central Government Sri S. C. Maheshwari led me through the details of oral and documentary evidence adduced by the Central Government in order to buttress the grounds warranting the Notification. The oral and documentary evidence relied upon by the Central Government relates to the grounds and instances of 'unlawful activities' indulged in by the Dal Khalsa and its members, associates and activists.

10. The Central Government has adduced five grounds of 'unlawful activities' in the Notification under review. According to the Central Government, the main object of the Dal Khalsa is the establishment of completely autonomous 'Khalsa State' and that, in pursuance of that object the organisation has been preaching secession and disruption of the territorial integrity of India through its activists. Secondly, the office-bearers and activists have extended support to the creation of the 'Khalistan' a separate State, by exhorting the Sikhs through circulation of posters and press-notes to indulge in such activities as burning of the Indian National flag, finalising their future course of action and arming themselves to achieve the goal of 'Khalistan Raj'. Thirdly, the activists and members with other like minded militant organisations have been propagating plans for action in Hindu dominated localities and for eliminating important leaders as also the police officers, issuing threats to Hindus to support their struggle. Fourthly, the members and activists abroad published a map of so-called Khalistan. Firstly, their members hoisted Khalistani flag and released balloons with propaganda materials.

11. The instances and the details of the 'Unlawful activities' indulged in by Dal Khalsa, its members and its activists have been embodied in the evidence adduced of G.A. 5, Prithpal Singh, the retired D.S.P. G.W. 6, G.W. 7 and G.W. 8. G.W. Mr. C. T. Benjamin, Joint Secretary to the Ministry of Home Affairs, has deposed to the effect that among

the major aims of the organisation as per the Constitution of 'Dal Khalsa' are to establish sovereign 'Khalistan Raj' in derogation to the Constitution of India and to struggle against the Constitution of India and to struggle against the anti-Sikh organisation and Gurudom. The copy of the translation of the Constitution of Dal Khalsa, the affected association (Ext. C/8) bears testimony to the above facts. The evidence of G.A. 5, Prithpal Singh, the retired D.S.P. corroborates the testimony of G.W. 1 to the above effect. He received information from his source regarding the formation of a new Sikh militant organisation in Gurudwara Sect-35 Chandigarh, named 'Dal Khalsa'. A copy of the Constitution of Dal Khalsa (Ext. G/8) was provided to him by his C.I.D. agent. The evidence of G.W. 5 also reveals the names of the office-bearers obtained from the information by him from his source.

12. G.W. 1, while giving instances of the 'unlawful Activities' indulged in by the Association refers to the activity of five of its members to hijack an aircraft of the Indian Airlines to Lahore on 29-9-81 to demand among other things the acceptance by the Government of India the establishment of a separate Sikh State to be called 'Khalistan'. While introducing the matter, G.W. 1, deposes that the concept of Khalistan was mooted by Dr. Jagjit Singh Chouhan who was ex-Finance Minister of Punjab State in the Akali Dal Ministry in 1968 and on 16th June, 1980, a declaration was issued in front of Akal Takhat Sahib at Amritsar announcing the establishment of the Government of Khalistan.

13. In the evidence led by the Central Government, instance and details have been sought to be adduced to the effect that even during the continuance of ban following the Notification of the Central Government (S.O. 218(E), dated 1st May, 86 (Ext. G/4) and the subsequent order of confirmation of the said Notification by the Tribunal in exercise of the powers under sub-section (3) of section 4 of the Act the Association carried on the 'Unlawful Activities'. The evidence of G.W. 1 refers to the secret meeting of the Dal Khalsa Activists and the members of the Khalistani Commando Force and other terrorist groups for stepping up the party work, chalk out plans for armed action in Hindu dominated localities, prepare the Sikh masses for a final struggle against 'Delhi Darbar' and eliminate the Punjab Ministers and Police officers whose names exist in their hit list. The information had been received by the Government of India from Sri Bhajan Singh D.S.P., C.I.D., Patiala, who has been examined as G.W. 6 in the instant case confirming the version of G.W. 1 as also the report dated 26-6-86 (Ext. G/9) the original of which was produced by him (Ext. G/9-A).

14. The evidence of G.W. 1 quotes further instance by pointing out the information received from source received by the Government regarding a secret meet-activists were directed to conceal their identity at the time of accomplishing the task given to them by the organisation. The receipt of the source reports (Exts. G/10 and 11 dated 26-6-88 and 28-6-86) has

been confirmed by G.W.C. Sri Bhajan Singh who produced, the original reports (Exts. G/10-A and 10-B) before the Tribunal. G.W. 6 also confirms the version of G.W.1 who deposes about the information received by the Government regarding a secret meeting of Dal Khalsa in Gurdwara Dukhnavaran on 5th July 1986 for criticising the Government vehemently for allegedly killing the Sikh youths in false encounters, in which a member of Dal Khalsa had said that the Sikhs had been struggling for their freedom. The original report Ext. G/12-A has been produced by G.W.6. The informations relating to the secret meetings of Dal Khalsa exhorting the Sikh youth to boycott Republic Day celebration on 26th January 1987 with the pledge on that day in Gurdwara to continue struggle for their attainment of demand for Khalistan, appeal made to Prof. Darshan Singh, Jathedar of Akal Takhat, to forge unity in Khalsa Panth for the attainment of Khalistan, exhorting the workers to bring more and more Sikh youths to their party fold for launching a decisive struggle for Khalistan demand are Exts. G/13, 14 and 15 respectively, confirmed by G.W.6 who has produced the source reports in original. The informations of the other secret meetings of Dal Khalsa dated 29th June 1987, 28th December 1987 and 2nd January 1988 figuring in the evidence of G.W.1 highlight the actions of the organisation in threatening the Director General of Police, Punjab with dire consequences if the allowed atrocities on Sikh youths were not stopped, exhorting all Sikh women to offer one son each to become members of Dal Khalsa for the attainment of Khalistan making appeal to the United States of America, West Germany, United Kingdom and China for funds for carrying on the struggle for Khalistan, giving a call to the Sikhs to boycott Republic Day function on 26-1-88 and making preparation in right earnest to disturb Republic Day Function in all districts of Punjab on 26-1-1988; are Ext. G/17, 18 and 19 respectively, the original source reports whereof were produced by G.W.6 Bhajan Singh.

15. Other instances have also been spelt out in the evidence adduced by the Central Government. The information dated 5th September 1986 and 14th February 1987 by the Government relating to the two leaflets in Punjabi written by the activists of Dal Khalsa warning the Hindu inhabitants of Punjab who support the armed attack on Sri Darbar Sahib and exhorting Sikhs, Tamils, Gorkhas, Kashmiri Muslims and Nagas for a final decisive struggle for the acceptance of their respective demands are Exts. G/20 and G/21 respectively. G.W. 3 Harbans Singh produced and proved the original reports. The communication of Gajinder Singh, one of the founder of 'Dal Khalsa' lodged in Pakistan Jail in hijacking case asking the Punjab Hindus and Congress People to oppose anti-Sikh policies of Government of India and support Dal Khalsa in the struggle for Khalistan and his similar instruction from the Lahore Jail in the month of November, 1987 asking the Sikhs to step up their struggle for their attainment of Khalistan and annihilate both the Governor and the Director General of Police embodied in the reports (Exts. G/22 and 23) respectively. The originals produced by G.W.2 Joga Singh bear ample testimony of the 'unlawful activities' indulged in by the members of Dal Khalsa and its activists.

16. The evidence of G.W.1 further cites the instance of hoisting of Khalistan flags at some places in

the Golden Temple complex on January 26, 1988 (Republic Day) by the Dal Khalsa and other militants who also released a large number of balloons containing 'Khalistan' propaganda material on the said Republic Day, two Khalistani flags were conspicuously hoisted at the Akal Takhat. The intelligence report has been proved as Ext. 2/G/24 in this connection. G.W.4 Rajinder Singh S.P. (CID) corroborates the evidence in this respect of G.W.1 and produced intelligence report in original. His evidence elaborates the version inasmuch as it speaks about the release of the bunches of balloons with saffron colour Farkas (clothes) on which the slogan-'Khalistan Zindabad' was written. The further instance of 'Unlawful Activities' by the association is the publication of a 'Khalistan Map' in the Book 'Kasari Kitab' written by Dr. Harjinder Singh Dilgeerin the issue dated May-June 1987 of the magazine 'Khalistan'. A copy of the said issue of the magazine is Ext. G-25. G.W. 8 the S. I. Police also has deposed to the effect that on 4th April, 1988, when he was on duty near the Golden Temple Complex, he received an information through his source that one Jagir Singh a leader, propagating demand for Khalistan pasted maps of Khalistan on the walls of Golden Temple Complex. In these maps, Chandigarh and Delhi Aerodrome have been given nomenclature in the names of the killers of Smt. Indira Gandhi, former Prime Minister of India. He lodged a case on F.I.R. No. 53 dated 4-4-88 under section 4(1) (a) (P) Act 1987. G. 8 produced the original FIR in his handwriting marked as Ext. G/30.

The evidence of G.W.5 Prithpal Singh retired D.S.P., earlier posted in the Special Branch of Punjab CID has furnished further instances. His evidence shows that in 1987, Dal Khalsa activists were held responsible for the downing of Indian Airline Plane 'Kanishka' in which 329 lives had been lost as for the explosion of another plane at Narita Airport in Japan. In Canada they are actively propagating for Khalistan and the Dal Khalsa activists are continuing their underground pro-Khalistan activities in India in collaboration with their counterparts taking shelter and training from Pakistan. He also speaks of extremist Sikh groups working under the front organisation of Dal Khalsa.

The evidence of G.W.7 Sardar Gurnam Singh an agriculturist also speaks volumes about the pro-Khalistan and terrorist activities of Dal Khalsa. He deposes about the killing incident of 40 Hindus Bus passengers by the activists on July, 1987 near Lahu in Patiala district and similar number of passengers were shot dead by hijacking other bus in Haryana. They also shot dead the SSP Mr. A. S. Brar and S. P. Headquarters. K. R. S. Gill of Patiala in NIE Patiala on 14th December 1987. His evidence further shows that Inspector Manjit Singh, S.H.O. Police Station Sadar Ludhiana was killed at Ludhiana and Inspector of C.I.D. Punjab was killed at Amritsar in January 1988. The objective of the said Association to get a Sikh majority state called 'Khalistan' has been highlighted in his evidence.

G.W.9 Nasib Chand speaks about the publication of the notification (Ext. G/1) in Punjab Gazette (Ext. G/31). He also deposes about valid service of notices

U's 4(2) and 4(3) of the Act by the Tribune marked as Exts. G/33, G/34 and G/35 respectively. The Central Government also relied upon Ext. C/36. The White Paper on Punjab agitation 'produced by G.W. 10 Sr. R.S. Anjua. The White Paper contains a very material and revealing information about the secessionist activities of the Dal Khalsa and order militant as well as secessionist organisations. The White Paper published on July 10, 1984, specifically dwells on the avowed object of Dal Khalsa in demanding the creation of an independent sovereign Sikh State preaching armed battle as the only way of achieving Khalistan quoting previous instances of blatant 'unlawful activities' to fulfil the secessionist aim of the above organisation. The evidence relied upon by the Central Government passes uncontroverted as the affected Association did not appear nor participated in the enquiry despite repeated service of Notices as set out above.

17. In this connection, it is worthwhile to mention that Sr. Harsimran Singh Hukh Pareb of Dal Khalsa sent a letter addressed to the Tribunal (Ext. C/1) under registered post (registered cover Ext. C/2) that he had resigned from the membership of Dal Khalsa having no concern with the said organisation at present. It appears from the letter sent by him that he has knowledge of the Notices of the Tribunal and he wanted to appear at Delhi at the time of Delhi sittings but apprehending arrest at Delhi, he would like to appear during inquiry at Simla sitting. He has further stated that he and his fellow advocates would take part at the argument stage at Simla. Although he did not admit any connection with Dal Khalsa at present, in his letter he intended to clarify the position of Dal Khalsa and National Council of Khalistan, stating therein that Dal Khalsa is only demanding special status for Sikhs as demanded by Akali Dal in the Anandpur Sahib Resolution. From the letter of Shri Harsimran Singh, it is established that the organisation 'Dal Khalsa' which was banned under the Act, firstly in May 1982, and subsequently in May 1984, May 1986 and May 1988 was in existence and he was the President of the banned organisation. Although he has stated about the absence of his authority to speak for the Association, he still intends to clarify his position as also the position of Dal Khalsa, evincing a contradictory approach, raising an adverse inference against his case. It is manifest that Sr. Harsimran Singh had notice of the proceedings of the Tribunal but at no stage, he did appear. In view of the fact that Shri Harsimran Singh merely sent the said letter dated September 29, 1988 and did not participate in the enquiry, it is clearly established that Dal Khalsa has no defence to offer in the case.

18. The cumulative effect of the oral and documentary evidence relied on by the Central Government as also the Circumstances referred to above lead me to irresistible conclusion that the Central Government has been able to establish sufficient cause for

the Notification issued under Ext. G/1 declaring the 'Dal Khalsa' as an 'unlawful Association'.

19. The Central Government has also relied upon instances of the allegations of 'Unlawful Activities' indulged in by the said Association even during the period subsequent to the date of the Notification (Ext. G/1) dated 4th May 1988. In this connection it is worth while to mention the evidence of G.W. 7, Sardar Gurnam Singh, an agriculturist of Patiala. His evidence clearly establishes that these protagonists of Khalistan killed Shri Hit Abhlaasi, the President of Bharatiya Janta Party at Chandigarh on 19th September 1988 and in their bid to create terror in the minds of Hindus, they killed ten persons at Barnala in Sangrur district, seven at Sadia in Faridkot district, eight near Jandiala, nine at Khera Bala Chowk near Kathunangal, ten at Sehsara, seven at Talwandi Sabho, eight at village Bhoian, ten at Sirhali, eight at Patti, seventeen near Harika, six at Rangarh, and eight at Jassarwal, all in Amritsar district. His further evidence is that they indulged in massacre of thirty-six labourers engaged in the construction of Sutlej Yamuna link canal on a single night in the Ropar district. He has categorically stated that all these ruthless murders have taken place in the current year and in the May-June 1988, there were bomb blasts at more than a dozen places in Punjab in Amritsar, Dinanagar, Pathankot and Ajnala in which more than one hundred persons mostly Hindus had been killed.

20. Thus the events subsequent to the Notification (Ext. G/1) also justify the continuance of Notification (Ext. G/1) under the Unlawful Activities (Prevention) Act, 1967. The circumstances referred to above warrant an order of confirmation of the declaration made in the Notification (Ext. G/1).

21. In view of my findings on Point No. 1 as regards the validity of the above Notification under the Act as also on Point Nos. 2 and 3, I hereby confirm the declaration made by the Central Government in the Notification (Ext. G/1) dated 4th May 1988. Let a copy of this order be forwarded to the Union Home Ministry for publication in the Government Gazette as expeditiously as possible. All other documents and papers submitted to this Tribunal be also returned to the Union Home Ministry along with the order.

Punjab Bhavan,

Copernicus Marg, New Delhi.

The 3rd November, 1988.

Sd/— S. H. S. ABIDI, Chairman

F. No. II/17017/68/88-IS(D.VII)

S. C. AGARWAL, Dy. Secy.

